

**REMARKS**

Reconsideration of above-identified application is respectfully requested. The Examiner rejected claims 1-4, 6-20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The claims have been amended to obviate that rejection. Claim 1 has been amended to provide antecedent basis for "solid phase", thus the rejection of claims 2 and 3 has been obviated. Claims 1 and 13 have been amended to delete "water-absorbing substances" and the word "preferably" has been deleted from claim 9.

The Examiner also held that the amendment to Claim 1, which incorporated prior Claim 5, was redundant and renders the claim indefinite. This rejection is respectfully traversed because the last recitation from incorporated Claim 5 provides a range by weight percent of those recited elements in the group previously recited. Thus, there is no redundancy, but a definition and specification of the weight range of each of the elements in the recited group.

The Examiner also rejected claims 1-4, 6-20 under 35 U.S.C. § 103(a) as being unpatentable under WO97-02670 in view of Lee (U.S. 5,456,933) and Berry et al. (U.S. 4,031,267). This rejection is respectfully traversed.

In the rejection, the Examiner points out that the present invention is directed to a "solid phase chunk" suitable for add mixing to or as the sole constituent of an animal food composition which contains proteins, one or more water-binding components, water and salt where the proteins are selected from one group, the water-binding components are selected from another group and, wherein a specified range of proteins of ten to thirty-five weight percent, flour, starch, waxy maize starch of fifteen to forty weight percent and of silicas physiologically unobjectionable metal oxides, non-toxic inerts, water-binding substances and five to twenty-five weight percent of cellulose powder/vegetable fibers. Thus, the "chunk" of the claim is defined as one with a specific range of these recited elements. No single prior art reference provides all of these ranges in one reference and the Examiner has impermissibly selected various components from the various recipes of the prior art to arrive at a conclusion of unpatentability. The Examiner fails to point to any teaching or suggestion in any of the references to make the combination proposed by the Examiner.

It is also respectfully pointed out that the Examiner has misread WO97-02670 at page 6, lines 5 and 6. The sentence, "The amount of fat is not an important parameter in this process and the amount can be selected as desired.", is not a disclosure of the '670 reference, but is a comment on the processes described in U.S. 4,781,939 and U.S. 5,132,137. The next sentence, "Consequently no fat need be added, particularly the animal protein source 2 contains fats", is also a comment on the previously identified references. The clear import of this is that no fat need be added because fat is already present in other ingredients. The only disclosure in this reference is, conveniently, the amount of fat in the primary emulsion is in the range of five percent to twenty-five percent by weight. This is above the range specified in the claims in the present invention and there is no teaching or suggestion in any of the references to reduce the range below five percent.

**Conclusion**

Accordingly, in view of the above amendments and remarks favorable reconsideration and allowance of the application is respectfully requested.

In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

By:



Leonard J. Santisi  
Reg. No. 24,135  
(858) 731-5000